Dear Senator,

I am here today to express my concerns over the current legislation your committee is hearing today. My name is Mike and I am sad to say that this hearing will have a profound effect on my life. I am not here to retry my case but it is important that you are aware of the specifics of the case that has me on the offender list.

I had started to chat on the internet to find any sort of connection with someone who would show they care in any way. And this was done only on the internet. The reasons for this action on my part are too numerous to list here. I made the mistake, no one else, of not stopping the conversation with an officer when they said they were 14. I pled to each and every count due to the AG's office unwilling to remove the "attempting to solicit for an immoral purpose" counts, the count that has me on the offender list. Now I am sure you think very poorly of me, and I can't really blame you, if that is all I knew I would feel the same. But I would like to share with you some of the facts. During this chat I had never asked for, nor offered, anything sexual or otherwise to the officer, that is a direct quote from the officer in court. So with the absence of an offer or a request there is no solicitation. No meeting was agreed to; no meeting was asked for; again a fact in the court record. There was no, as the prosecution called it, "contraband" found on either of the searched computers, this means no previous chats, no images, no emails, NOTHING! During the chats the officer offered to meet me, but he was turned down. During the chats the officer was trying to get a request for indecent pictures, again his attempt failed. Two doctors that specialize in sexual cases, one hired by the state, said I was of "no danger", that I am a "very low risk or reoffending", that the internet was used as a way to cope with abuse from my then spouce. A personal counselor who worked with both my ex and I during this ordeal agrees with their reports. The person hired by Macomb County who did the physiological exam of me, my daughter and my ex, also agreed with the previous doctors reports, adding in reference to me he "does not present as slick or sociopathic". I was such a non danger in her eyes that I was awarded a parenting time schedule greater than the normal standards. Currently, as she did from the first day she found out we were getting a divorce; my daughter wants me to have full custody. We are working toward a compromise for 50/50 now, as I have no money to fight for full custody in court. Next year my daughter will have much more say on whom she wishes to live with, and it will be addressed then.

Today you will hear concerns from many of us on different aspects of this proposed bill. Many of them that I will not be addressing today I do agree with. I will be addressing two specific statues and where they are placed within the tier system, the lack of an offender's opportunity to petition to be removed from the Registry and the misconception that being listed is not a punishment.

1: In tier 1 you have 750.335a(2)(b) listed "Indecent exposure (w/fondling of self)". In tier 2 you have 750.145d listed, this statute prohibits the use of a computer to do one of a number of statutes. Reading this one assumes that all listed offences under 750.145d are to be in tier 2. Statute 750.145d is written as to not allow the use of a computer to violate a currently listed offence. If you read the full statute you will realize that 750.145d(2)c is in essence the same as 750.335a(2)(b) as if forbids statute 722.675 "dissemination of adult material". It is used in internet cases where a webcam was used to send streaming video. One could argue that it is in fact less than statute 750.335a(2)(b) as no real minor

needs to be involved, and in the vast majority of cases is not involved. The underlying offence for 750.145d(2)c, MCL 722.675, this is not even a listed offence under current law or the proposed legislation before you today. Thus, I believe it would be unfair to have 750.145d(2)c in tier 2.

In addition to this, statute 750.145d has 750.145d(2)d under it. Under 750.145d one can't "attempt" to do statute 750.145a, when an offender is charged with 750.145d(2)d it is for the attempt of 750.145a. Statute 750.145d(2)d is used in internet cases where one can't be charged with offences (750.145b, 750.145c) or the more serious tier 3 offences like 750.35. Thus on its face 750.145d2(d) could be tiered less than 750.145a as it is an attempt of that statute, and done via a computer as opposed to in person. But my argument goes beyond that. When you look at specific cases such as mine, where the officer testified that there was no solicitation of anything sexual, then the underlying offence is paramount. By reading the motions submitted to the court in my case you will see that the argument made by the State was in regards to the attempting to solicit was this "Clearly, enticing a child to watch an adult male masturbating is a prohibited act under the statute". I do not disagree with that assessment as 750.145d does prohibit statute 722.675. But I do disagree with applying the underlying offence as 750.145a and not 722.675 as with the other counts in this case. If you were to look at each of the counts, one conversation equals one count in the case, they do not differentiate from each other. So one would question why apply 2 different underlying offences for the same thing. Could the fact that 750.145a is a listed offence and 722.675 is not a listed offence be a factor? If 750.145a and 722.675 are interchangeable under 750.145d, as the State's argument above dictates, and 722.675 is the same as 750.335a(2)(b) as determined above with the exception of a computer being the object used for the offence. Then it would be fair to apply tier 1 to 750.145d(2)d and not tier 2, leaving the other underlying 750.145d offences under tier 2.

2: The facts and reasoning stated above in my argument for retiering statues 750.145d(2)d and 750.145d(2)c could also be used to give reason to grant an offender the opportunity to apply to be removed from the offender list. I have not studied every single statute listed under tier 2, I am sorry I was made aware of this hearing at a very late date. As described above there are many offences listed under some of these statues used as the underlying offence. Some are worse than others. One of the worst things you can do is to blanket lesser offences with greater ones under the same tier. The only remedy for this would be to look at each case to see what the actual underlying offence is, and its severity. This cannot be accomplished with legislation alone. Give the judiciary, an equal and important component to our government, the ability to aid your legislation. I ask that you apply to tier 2 the same petition for removal that has been applied to tier 1. Again, there are people who have been grouped together on this list that do not belong grouped together. I am not going to reiterate the recidivism rates, numbers that are lower than many other categories of offences as you will hear them multiple times today. Allowing the petition will help separate people who potentially pose a danger to the community from those who do not. I believe this request fits exactly into the stated reason by this same legislator for the implementation of SROA in the first place. The purpose of the Sex Offender's Registry Act, as declared by the legislature in MCL 28.721a, is pursuant to the police power. The stated intent is to better assist law enforcement officers and Michigan's citizens in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders:

"The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger. MCL 28.721a."

By allowing people who can be determined to not pose a danger to be removed makes the Sex Offender Registry more effective. And it fits your own body's reason for SORA. To NOT let them petition to be removed, to group them with people that do pose a danger is the exact opposite to your own stated intent for SORA.

3: I will briefly touch on the misconception that being on the registry with its restrictions it not a punishment. When innocent forgetfulness can lead to a prison sentence that is a punishment. This legislative body is unaware of the numerous local city ordinances that apply to someone on the offender list, they are a punishment. When one who does not pose a danger to anyone is grouped together with people who do pose a danger and is looked at with the same disdane that is a punishment. When that same person who does not pose a danger must abide by the same restrictions as someone who does pose a danger that is a punishment. These restrictions will affect me greatly very soon as I will have full custody of my daughter. My daughter being a type 1 diabetic needs special care and attention. Being able to give that care when needed, even at her school, is a right I deserve. It is a right she deserves, as there is nobody who can care for her like I can. Nobody has the right to make a decision regarding her care without me.

Thank you

Mike